

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

BRENDA FOWLER, )  
                        )  
Petitioner,         )  
                        )  
v.                     )         Nos.: 3:10-cr-145-TAV-HBG  
                        )         3:13-cv-319-TAV-HBG  
UNITED STATES OF AMERICA, )  
                        )  
Respondent.         )

**MEMORANDUM AND ORDER**

This is a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Petitioner has also filed a motion asking that the transcript of her sentencing hearing be provided to her at no charge along with an application to proceed *in forma pauperis* in that regard. According to petitioner, the sentencing transcript is necessary to support her claim of ineffective assistance of counsel at sentencing. The motion for sentencing transcripts and the *in forma pauperis* application were referred to United States Magistrate Judge H. Bruce Guyton. In his Report and Recommendation, Magistrate Judge Guyton recommends the motion for sentencing transcripts and the *in forma pauperis* application be granted if the Court determines that the § 2255 motion is not frivolous.

Petitioner's § 2255 motion is not frivolous on its face. Accordingly, the Court certifies that the § 2255 motion "is not frivolous and that the transcript [of petitioner's sentencing] is needed to decide the issue presented" in her § 2255 motion. 28 U.S.C. §

753(f). Petitioner's motion that the transcript of her sentencing hearing be provided to her at no charge [Doc. 106] and her application to proceed *in forma pauperis* [Doc. 107] are **GRANTED**. The court reporter is **DIRECTED** to file with the Court, within thirty (30) days of the entry of this Memorandum and Order, a transcript of petitioner's sentencing hearing and to provide petitioner a copy of said transcript at no charge to her. The court reporter's fee for the preparation of the transcript "shall be paid by the United States out of money appropriated for that purpose ...." *Id.*

Since it does not plainly appear from the face of the motion that it should be summarily dismissed, the United States Attorney is hereby **ORDERED** to file an answer or other pleading to the motion within sixty (60) days from entry of this Order. Rule 4 of the Rules Governing Section 2255 Proceedings For The United States District Courts.

E N T E R :

s/ Thomas A. Varlan  
CHIEF UNITED STATES DISTRICT JUDGE